

1250 Union Road
West Seneca
New York 14224
U.S.A.

(716) 674-5600
fax:
(716) 677-4330



Return to
Board
Minutes
Town Board
Agendas and
previous Minutes

DROP DOWN
MENU

Home Page
Go!

312844



Town of West Seneca



INCORPORATED 1851

"Proud Past - Unlimited Future"



Town Board Minutes 05/20/2002 ... Continued...

[\[Return to Page One\]](#)

WEST SENECA TOWN OFFICES

1250 Union Road
West Seneca, NY 14224
Page nine . . .

TOWN BOARD
PROCEEDINGS
Minutes #2002-8
May 20, 2002

PROBLEMS OF THE PUBLIC

CAZENOVIA CREEK ICE CONTROL STRUCTURE

Mary Penders, 63 Parkside Drive, represented the Southgate Homeowner's Association, and questioned the status of Legal Item #6 on the agenda for this meeting. She understood from an article in the Buffalo News that the item would be voted on at this meeting.

Supervisor Clark advised that Legal Item #6 concerning bonding for the ice control structure was approved at the last Town Board meeting and the Buffalo News reporter had misinterpreted the wording of that item.

Mrs. Penders questioned if funding from the state and federal government was secured.

Supervisor Clark stated that this was all finalized and he had passed the information along to the head of the Southgate Homeowner's Association. He understood that the Army Corps of Engineers and the New York State Department of Environmental Conservation (NYSDEC) approved the

funding.

Town Attorney Tim Greenan advised that he and Town Engineer George Montz had been meeting regularly with representatives from the Army Corps of Engineers and NYSDEC to work out the final terms of the agreement. The State of New York was originally going to use their condemnation power to take the necessary easements, but the Pataki administration decided not to use eminent domain. The Town of West Seneca then agreed to take the lead role and acquire the land under contract so the project could proceed. The dollars were committed and they were finalizing the terms of the agreement.

Mrs. Penders questioned if the land acquisition process had been started.

Mr. Greenan responded that they identified the property and put together a budget, but they had not spoken to the property owners. They planned to hold a public information meeting in mid summer. Any property owner that did not attend the meeting would be spoken to on an individual basis.

Mrs. Penders requested that the Southgate Homeowner's Association be notified of the public information meeting.

Councilman Graber noted that the ice retention facility was the #1 project in the entire state for NYSDEC.

Mr. Greenan also noted that this was the first local project that the Army Corps of Engineers was doing locally in 10 to 20 years.

Councilman Graber stated that he personally contacted Governor Pataki's office and related the importance of the facility and how long it was delayed. He reassured Mrs. Penders that they were trying to move the project along as quickly as possible. The next step would be to acquire the flooding rights and then construction could begin.

Joe Kirby, 5 Singer Drive, hoped that the flood control project would move along and referred to an Army Corps of Engineers report from 20 years ago concerning the project.

Town Attorney Tim Greenan stated that they were in the process of finishing the agreements and by mid-summer there should be a public meeting and a somewhat firm timeframe.

Town Engineer George Montz invited Mr. Kirby to stop in his office to view the plans and the tentative schedule.

Supervisor Clark stated that the project was shelved for 30 years and the Town Board re-activated it along with the Army Corps of Engineers. The technology changed and the board was pushing for the project to happen.

Councilman Graber noted that the percentages for funding also changed, but Supervisor Clark was able to convince Congressman Quinn to maintain the original funding percentages from 20 years ago.

WEST SENECA TOWN OFFICES

1250 Union Road
West Seneca, NY 14224
Page ten . . .

**TOWN BOARD
PROCEEDINGS**

Minutes #2002-8

May 20, 2002

PROBLEMS OF THE PUBLIC

PROPERTY MAINTENANCE AT OCCHINO PAVING

Mark Porter, 63 Stephenson Street, questioned the status of the situation at Occhino Paving on Seneca Street.

Councilman Graber stated that he met with some of the residents of Stephenson Street on a Saturday afternoon to view the situation and also met with Lee and Anthony Occhino of Occhino Paving. The Occhino's assured him that they were committed to living in harmony with the residents of Stephenson Street and they intended to have their property be a park-like setting. They were a victim of the heavy snow last December when their garage caved in and several vehicles were damaged. Councilman Graber did not believe the Occhino's were trying to avoid improving their property. He thought they were committed to rebuilding the garage and cleaning up the area as soon as possible and would try to block out the negative aspects of the business as best they could.

Building Inspector Bill Czuprynski noted that the fence was in the process of being constructed.

Mr. Porter questioned if the town had given the Occhino's a deadline by which to achieve certain improvements.

Supervisor Clark responded that they did not give the Occhino's a deadline because of their seemingly willingness to cooperate and the immediate action they took with the fence. They were also in the process of obtaining a building permit to reconstruct the garage, and that would get the vehicles out of sight.

Councilman Graber stated that the Occhino's had long-term plans that would improve the entire site. They also would like to find another location to store their equipment and use this location strictly for an administration office. Councilman Graber would be meeting again with the Occhino's to find out what other plans they had for improvements to the property.

Mr. Porter requested that Deputy Town Attorney Bill Bond furnish him with a copy of the town ordinance with regard to a C-2 zoning and what was permitted and restricted under that classification. He further questioned if commercial properties were required to have a certain amount of foliage.

Supervisor Clark advised that the only way the Town Board could impose a foliage requirement on commercial property was if it came before them for a rezoning and they placed certain stipulations as part of the approval.

Linda Alicea, 24 Stephenson Street, thanked Councilman Graber for visiting the site and talking with the Occhino's. She commented on the trees that run along the property line between Occhino Paving and the Stephenson Street property and separated the business from residential. Ms. Alicea requested that Mr. Occhino be asked not to cut the trees down.

Supervisor Clark directed Mr. Czuprynski to communicate Ms. Alicea's request to Mr. Occhino.

STORM SEWER ON COVE HOLLOW

Dave Ebert, 37 Cove Hollow, questioned if there had been any resolution to his problem with the storm sewer being incorrectly located on his property.

Town Attorney Tim Greenan advised that although the developer incorrectly installed the sewer, the town had no mechanism to force the developer to move the sewer. To have it moved would entail a private course of action with Mr. Ebert against Mr. Owczarczak, Mr. Niederpruem, and Mr. Coppola, who developed it. Mr. Greenan thought that the best solution was for Mr. Ebert to move the sewer, build his pool and bring an action against Mr. Owczarczak for the cost of moving the sewer. Although the town could not force Mr. Owczarczak to move the sewer, Mr. Greenan tried to contact him and persuade him to move it, but he was unresponsive.

WEST SENECA TOWN OFFICES

1250 Union Road
West Seneca, NY 14224
Page eleven . . .

TOWN BOARD PROCEEDINGS

Minutes #2002-8
May 20, 2002

PROBLEMS OF THE PUBLIC

STORM SEWER ON COVE HOLLOW (continued)

Supervisor Clark did not believe there was anything the town should have done differently that would give them legal or financial responsibility for something that happened on private property between Mr. Ebert and Mr. Owczarczak.

Mr. Greenan thought that the most cost-effective thing for Mr. Ebert to do was to have the sewer moved as part of the pool installation and then commence a small claims action against Mr. Owczarczak. A small claims action had a limit of \$3000 in Town Court, but if Mr. Ebert were to take it to Supreme Court or City Court it could take up to five years and the legal

expenses would be costly. Mr. Greenan stated that he would attempt to contact Mr. Owczarczak again tomorrow and let Mr. Ebert know if he was willing to do anything to resolve this matter.

CRACKED SIDEWALK ON KIRKWOOD DRIVE

Bruce White, 45 Kirkwood Drive, stated that during the snowstorm last December, the Highway Department sent a hi-lift to his street to remove the snow. The hi-lift operator dumped snow in Mr. White's front yard and in the process cracked one of the new slabs. Mr. White questioned if he had any recourse for the town to fix the damage.

Councilman Graber stated that the town would be receiving some money from FEMA to cover things like broken curbs, sidewalks, etc.

Highway Supt. Pat Finnegan stated that he had applied for funding to cover sidewalk and curb damage and Mr. White's damage could possibly be covered under that.

STATUS OF SENECA MALL SITE

Bruce White, 45 Kirkwood Drive, referred to a Buffalo News article on the former Seneca Mall site and asked for an update.

Supervisor Clark clarified his comments in the news article and stated that he had called a representative from Pyramid and suggested that they respond to the town's letter. The representative told him that he was unaware of the letter, but he would take care of it. The day the news article was published a summons was issued for them to appear in court. The town would be billing Pyramid for any work that had to be done.

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

ROADSIDE FLOWER STANDS

Councilman Osmanski commented on the roadside stands selling flowers for Easter and Mother's Day and referred to a particular stand at Santora's on Transit Road. He questioned if this type of stand was permitted in town.

Building Inspector Bill Czuprynski responded that this was permitted on commercial property as long as the individual obtained a peddler's permit from the Town Clerk's Office and paid the required fee.

WEST SENECA TOWN OFFICES

1250 Union Road
West Seneca, NY 14224

TOWN BOARD
PROCEEDINGS
Minutes #2002-8
May 20, 2002

Page twelve . . .

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

GREENHOUSE ON TRANSIT ROAD NEAR SENECA STREET

Councilman Osmanski questioned the tent type structure at Seneca Street and Transit Road that sold flowers and plants.

Mr. Czuprynski stated that this individual came into the Building Department three years ago requesting a permit to put up a tent temporarily. Schettler's Restaurant owned the property and the individual had an agreement with them to purchase it. He appeared before the Zoning Board of Appeals for a temporary permit for the parking lot, which was not hard surfaced. He also applied to New York State for a permit to not have permanent restrooms on site and Erie County Water Authority for a permit to use the fire hydrant. Since that time, he was back to the Zoning Board of Appeals requesting permission to continue using the parking lot without it being hard surfaced. Mr. Czuprynski understood that the individual was not able to get the financing or could not get Schettler's to agree on a price for the property.

Councilman Osmanski commented on the number of nurseries that made major investments in the town and paid significant property taxes and stated that this individual was basically breaking every building code. He did not believe that this business should be allowed to continue.

Mr. Czuprynski did not believe that New York State would renew the permit for the restrooms and the Zoning Board had denied his request for the parking lot. If he did not buy the land and put up a building, he would have to relocate his business.

PROPERTY MAINTENANCE AT SENECA STREET & TRANSIT ROAD

Councilman Wroblewski referred to the condition of the vacant garage at the corner of Seneca Street and Transit Road and questioned if there was anything the town could do to make the property owner clean up the property and building.

DISEASED GRASS ON KIRKWOOD DRIVE

Councilman Wroblewski stated that he had received calls from the residents of 84, 94 and 109 Kirkwood Drive regarding the grass between the new road and sidewalks. In some places the grass never grew and he questioned if the contractor was responsible for this.

Town Engineer George Montz responded that it was beyond the one-year guarantee period, but there was a meeting last fall and this spring regarding the problem. Along with the very dry summer last year, there was a disease in the grass that caused it to die. The contractor and landscaper agreed to come back and remedy the situation as soon as it was dry enough to do so.

ABANDONMENT OF PROPERTY IN VILLA DESTRO SUBDIVISION

Town Attorney Tim Greenan stated that the cul-de-sacs on Lena Court, Diane Court, and Ganna Court in the Villa Destro Subdivision were all 60 feet, but they were recorded on the map cover as 67 feet. When the developer deeded the streets over to the town they deeded 67 feet, which included more than the pavement. The lots were then sold based on the 60-foot cul-de-sacs, so the homes had setback issues. The adjoining property owners were now asking the town to abandon the extra seven feet and quit claim the property to them.

Motion by Councilman Osmanski, seconded by Supervisor Clark, to abandon and quit claim to the adjoining property owners the following described property in the Villa Destro Subdivision, subject to easements for any town facilities that are contained in that area:

WEST SENECA TOWN OFFICES

1250 Union Road
West Seneca, NY 14224
Page thirteen . . .

**TOWN BOARD
PROCEEDINGS**
Minutes #2002-8
May 20, 2002

PRESENTATION OF COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

ABANDONMENT OF PROPERTY IN VILLA DESTRO SUBDIVISION

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of West Seneca, County of Erie, and State of New York, being part of Lot No. 265 of the Ebenezer Lands, and being the strips of land within the cul-de-sacs known as Lena Court, Diane Court, and Ganna Court, dedicated to the town for highway purposes by deed recorded in Liber 10892 of Deeds at Page 9206, and more particularly described as those portions of the cul-de-sac lying between the right-of-way lines as shown under Map Cover No. 2745 with radii of 67 feet and right-of-way lines as shown under Map Cover 2601 with radii of 60 feet.

On the question, Mr. Greenan advised that this was for the benefit of the adjoining property owners, one of which was applying for a variance because their house was built off the 60 foot radius and they were in violation of the setback requirements.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Supervisor Clark, seconded by Councilman Osmanski, to adjourn the meeting at 9:15 P.M.

Ayes: All

Noes: None

Motion Carried

PATRICIA C. WISNIEWSKI, RMC/CMC
TOWN CLERK

[Return to Head of Form] [Return to Page 1]

Disclaimer

For additional information, suggestions, or problems, please contact our Webmaster